

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION**

**KING LINCOLN BROWNSVILLE  
NEIGHBORHOOD ASSOCIATION, *ET AL.***

**CASE NO. 2:06-CV-00745**

**PLAINTIFFS,**

**v.**

**JUDGE MARBLEY  
MAGISTRATE JUDGE KEMP**

**OHIO SECRETARY OF STATE  
JENNIFER BRUNNER, ET AL.**

**PLAINTIFFS' RESPONSE TO DEFENDANT OHIO SECRETARY OF STATE JOHN  
HUSTED'S PROPOSAL THAT THE COURT SCHEDULE A STATUS CONFERENCE  
IN THIS CASE**

Ohio Secretary of State John Husted's motion to schedule a status conference in this case is premature. Outstanding discovery now sought by the plaintiffs, with the agreement of his predecessor Secretary of State Jennifer Brunner, should be allowed to go forward and be completed before any status conference is scheduled by the court.

Recent public disclosures of e-mails of HBGary-Federal have revealed a proposed private counterintelligence program, to be funded at \$2 million, against critics of the United States Chamber of Commerce.<sup>1</sup> The timing of this covert dirty tricks campaign against the Chamber's critics tracks

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<sup>1</sup>See Attachment 1 and 2 hereto: stories from the Washington Post and New York Times respectively. Plaintiffs' trial counsel litigated from 2000-2005 against the Ohio Chamber on behalf of the Alliance for Democracy and, as Chairman of the Legal Affairs Committee of the Board of Directors of Common Cause/Ohio managed that group's companion litigation against the U.S. Chamber of Commerce. In 2007 Plaintiffs' trial counsel issued a document hold notice to the Ohio Chamber under the Ohio Corrupt Practices Act, and on July 17, 2008 issued such

with Plaintiffs' efforts under the Civil Rules of Procedure to bring to light information about the Chamber's secret financing of public elections in Ohio.

A similar private counterintelligence project was reported in some detail by an informant to the Federal Bureau of Investigation for termination of Michael Connell, the key witness identified by plaintiffs' counsel against Karl Rove.<sup>2</sup> Plaintiffs' strategic discovery against the Ohio Chamber and U.S. Chamber of Commerce and the deposition of Karl Rove should lead to evidence relevant to the ongoing civil rights conspiracy alleged by the plaintiffs.<sup>3</sup>

Furthermore, the exit poll evidence of a "red shift" in the 2010 election cycle is now being carefully analyzed by a team of experts. The 2010 red shift affected a broader cross-section of races important for control of state governments and the Congress over the next decade.

In Ohio, for example, Governor Strickland won by 5.4 points according to the exit polls. While down-ticket races are not exit-pollled, the exit poll discrepancy in the U.S. Senate race of

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notices to the U.S. Chamber of Commerce and to the U.S. Department of Justice with respect to Karl Rove's political White House Emails.

<sup>2</sup>Michael Connell also did strategic IT work for the Chamber of Commerce and groups such as Swift Boat Veterans for Truth presenting themselves as independent of Karl Rove.

<sup>3</sup>Plaintiffs' records subpoena to the Ohio Chamber is presently before this Court. Their deposition subpoena to Karl Rove is pending before the U.S. District Court for the District of Columbia which has stayed consideration of Mr. Rove's motion to quash pending this court's further consideration of plaintiff discovery. Plaintiffs' records subpoena to the U.S. Chamber was issued from the District Court for the District of Columbia is opposed by the Wiley Rein law firm.

approximately nine points suggests a shifting of votes in competitive down-ticket races.

Apparent broad based organized criminal activity should command the attention and commitment of resources by the United States Department of Justice. The Presidency remains in the hands of a democratically elected official who, according to the exit polls, was actually elected by a far larger margin than was officially reported. Without his intervention against private counterintelligence programs against the people and the Constitution of the United States, the next Presidential election may be vulnerable to fraudulent manipulation.

All parties should benefit from the information sought by the plaintiffs before making decisions about the longer range course of this litigation.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

A copy of the foregoing was served upon counsel for the parties and respondents through the Court's electronic filing system, this 25<sup>th</sup> day of January 2011.

*/s/ Clifford O. Arnebeck, Jr.*

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Clifford O. Arnebeck, Jr.